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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,791	09/12/2003	Bernard Leung	873.1001	8355

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EXAMINER
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GROSSO, HARRY A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/661,791

Applicant(s)

LEUNG, BERNARD

Examiner

Harry A. Grosso

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/12/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Drawings***

1. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10, 12, 20 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 12 and 20 recite "a slit" and it is unclear whether the previously recited slits or another slit is intended.

5. Claim 12 recites the limitation "said cup" in the second line. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 12 recites the limitation "said body" in the eighth line. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 22 recites the limitation "said blank" in the second line. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, 4, 5, 10-13, 15, 16, 20, 21, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Mark et al (248,770).

10. Mark et al discloses an insulating sleeve capable of being used for encircling a conical container, the sleeve is made from a rectangular blank formed into a cylindrical shape (Figure 2 and lines 29-34) with slits cut perpendicularly from the upper edge (line 35), the slits ending in a cut out region of circular configuration. The slits comprise a notch in the upper edge of the sleeve. The sleeve is made from pasteboard which would provide some level of insulation.

11. Claims 1, 2, 9, 12, 13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Redlich (538,699).

12. Redlich discloses an insulating sleeve capable of being used for encircling a conical container, the sleeve made from a rectangular blank formed into a cylindrical shape with slits cut perpendicularly from the upper edge and cut out portions at the bottom edge opposite the slits (Figures 1 and 5, lines 14-18).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 3, 8, 14 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mark et al.

Claims 3, 14 and 22 recite that the slits are cut from about one-half to about four-fifths of the way across the body which appears to be a design choice. Applicant has not disclosed that the slit length recited solves any stated problem or is for any particular purpose and slits of other lengths could work equally well. Additionally, the sleeve of Mark et al would be inherently capable of being produced with slits meeting these requirements if deemed desirable.

15. Claim 8 recites that the slits number from two to six which appears to be a design choice. Applicant has not disclosed that having from two to six slits solves any stated problem or is for any particular purpose and sleeves with additional slits could work equally well. Additionally, the sleeve of Mark et al would be inherently capable of being produced with the number of slits meeting these requirements if deemed desirable.

16. Claims 6, 7, 18, 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mark et al in view of Shelby (5,445,315). Mark et al discloses the insulating sleeve or holder but does not teach the use of fold lines to allow the assembled sleeve to lie flat as a folded blank and be opened by squeezing the folds.

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Shelby discloses an insulating sleeve formed from a rectangular blank having fold lines extending across the blank (28, Figures 2, 5 and 6, column 2, lines 35-38) to allow the assembled sleeve to lie flat as a folded blank and be opened by squeezing the folded blank inward. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of fold lines extending across the blank as disclosed by Shelby in the insulating sleeve disclosed by Mark et al to allow the assembled sleeve to lie flat as a folded blank and be opened by squeezing the folded blank inward.

### ***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gale (6,364,151) and Chun (6,286,798) disclose insulating sleeves.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday and alternate Fridays from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on 571-272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Lee Young  
Supervisory Patent Examiner  
Art Unit 3727

hag